

Remarks

This amendment is submitted in response to the Office Action mailed 25 April 2005, in connection with the above-identified application (hereinafter, the "Office Action"). The Office Action provided a three-month shortened statutory period in which to respond, ending on 25 July 2005. Submitted herewith is a Petition for a Three-Month Extension of Time extending the due date to 25 October 2005. Accordingly, this amendment is timely submitted.

Claims 1 through 20 as originally filed are currently pending.

Claims rejections under 35-USC §102(b)

The Examiner has rejected claims 1-5, 7, 8, 10-14, 16 and 18-20 under 35-USC §102(b) as being anticipated by Larkin, et al. (United States Patent Number 4,523,691). The present invention relates to a sterile closure device particularly suited for flexible containers, that contains at least two protective mechanism that create a sterile chamber and minimizes leakage, and finger support to facilitate grasping and puncturing (abstract). Larkin relates to a port structure with a pierceable diaphragm (abstract).

Applicant will first address the independent claims (1, 2, 11 and 20) and it is understood for the reasons stated below that applicant believes the independent claims to be patentably distinct from Larkin. Since the dependent claims further limit the independent claims, they are therefore believed to be patentable as well.

Looking at the element of the independent claims "a support connected to said base section and adapted for a user to grip said closure device", the Examiner asserts that the support section is similar to 14 (supporting portion— Column 2 line 59). Looking at figure 7 of Larkin, it would be noted that 14 (supporting portion) is contained within bag port 46 and welding head 44 which is inside flexible plastic bag 68 or the walls that make it up and would therefore be inaccessible to a user and would therefore not be "adapted for a user to grip said closure device". Since a rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference (In re Paulsen, 31USPQ2d 1671 (Fed Cir. 1994)), the failure of this one element would be believed to negate the 102(b) rejection. While a reference prior art need not use the identical terminology, the reference must "sufficiently describe the claimed invention to have placed the public in possession of it." Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 24 U.S.P.Q.2d 1321, 1332 (Fed. Cir. 1992). Larkin does not teach or suggest a "a support connected to said base section and adapted for a user to grip said closure device."

Thus, in view of the foregoing arguments, Applicant respectfully requests that the rejections under 35 U.S.C. §102(b) be withdrawn.

Claims rejections under 35-USC §103

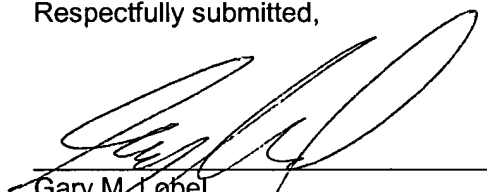
The Examiner has rejected claims 6, 9, 15 and 17 under 35-USC §103 as being obvious over Larkin, et al. (United States Patent Number 4,523,691).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143. As stated above, the element of independent claims 2, and 11, "a support connected to said base section and adapted for a user to grip said closure device", is neither taught nor suggested by Larkin. Therefore, the prior art reference does not teach or suggest all the claim limitations as required by MPEP 2143. Thus, in view of the foregoing arguments, Applicant respectfully requests that these rejections under 35 U.S.C. §103 be withdrawn.

Furthermore, Applicant respectfully requests reconsideration of the present application. If a telephone interview would be of assistance in advancing the prosecution of the application, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

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Respectfully submitted,



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